

REMARKS

Summary

Claims 1-23, 25-38, 41 and 43 stand in this application. Claims 24, 39, 40 and 42 have been canceled without prejudice. Claims 1, 13, 16, 20, 26, 29, 32 and 41 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

Although Applicant disagrees with the broad grounds of rejection set forth in the Office Action, Applicant has amended claims 1, 13, 16, 20, 26, 29, 32 and 41 in order to facilitate prosecution on the merits.

35 U.S.C. § 102

At page 2, paragraph 2 of the Office Action claims 1-19 stand rejected under 35 U.S.C. § 102 as being anticipated by United States Patent Publication Number 2003/016393 A1 to Ahn ("Ahn"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

Applicant respectfully submits that to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for example. Applicant submits that Ahn fails to teach each and every element recited in claims 1-19 and thus they define over Ahn. For example, with respect to claim 1, Ahn fails to teach, among other things, the following language:

apply a correction to the timing of symbol sampling if the amount of timing error exceeds a threshold.

According the Office Action on page 6, this language is disclosed by Ahn at paragraphs [0048] and [0052]. Applicant respectfully disagrees. Ahn at the given cites, in relevant part, states:

...the second embodiment timing error detecting part 301b multiplies a difference of two symbol samples and an intermediate sample value of the two symbol samples to I, and Q signals, respectively.

...because the timing error detecting part 301b of the present invention detects a polarity form of timing error, an average gain of the timing errors are significantly greater than a related art timing error detecting part. Moreover, as shown in FIG. 4, the timing error can be obtained by using the I signal only, or as shown in FIG. 5 the timing error can be obtained by using both the I and Q signals. The first embodiment timing error detecting part in which only the I signal is used has a simple circuit system, and the second embodiment timing error detecting part in which only the I and Q signals are used can provide a more accurate timing error, though a circuit system thereof is complicated.

In contrast, the claimed subject matter teaches “apply a correction to the timing of symbol sampling if the amount of timing error exceeds a threshold.”

Applicant respectfully submits that Ahn fails to teach, suggest or disclose the above recited language of claim 1. Ahn, arguably, teaches timing error detection, but Applicant respectfully submits that Ahn fails to teach applying a correction to the timing of symbol sampling if the amount of timing error exceeds a threshold. In fact, Applicant respectfully submits that Ahn fails to even mention a threshold. Consequently, Ahn fails to disclose all the elements or features of the claimed subject matter. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 1. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection

with respect to claims 2-12, which depend from claim 1 and, therefore, contain additional features that further distinguish these claims from Ahn.

Claims 13 and 16 recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 13 and 16 are not anticipated and are patentable over Ahn for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claims 13 and 16. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 14-15 and 17-19 that depend from claims 13 and 16 respectively, and therefore contain additional features that further distinguish these claims from Ahn.

35 U.S.C. § 103

At page 5, paragraph 4 of the Office Action claims 20-43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ahn in view of United States Patent Publication Number 2006/0031275 A1 to Cannon (“Cannon”). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

The Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness. According to MPEP § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the reference (or

references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

As recited above, to form a *prima facie* case of obviousness under 35 U.S.C § 103(a) the cited references, when combined, must teach or suggest every element of the claim. See MPEP § 2143.03, for example. Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness because the cited references, taken alone or in combination, fail to teach or suggest every element recited in claims 20-43. Therefore claims 20-43 define over Ahn and Cannon whether taken alone or in combination.

Applicant respectfully submits, as recited above, that Ahn fails to disclose teach or suggest the missing language of independent claims 1, 13 and 16. Furthermore, Applicant respectfully submits that Cannon also fails to teach, suggest or disclose the missing language.

Applicant respectfully submits that independent claims 20, 26, 29, 32 and 41 have been amended to recite features similar to those recited in claims 1, 13 and 16. Therefore, Applicant respectfully submits that claims 20, 26, 29, 32 and 41 are not obvious and are patentable over the Ahn and Cannon, taken alone or in combination, for reasons analogous to those presented with respect to claims 1, 13 and 16 above. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to claims 20, 26, 29, 32 and 41.

Furthermore, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. *See* MPEP § 2143.03, for example. Accordingly, removal of the obviousness rejection with respect to claims 20, 26, 29, 32 and 41 is respectfully requested. Claims 21-23, 25, 27-28, 30-31, 33-38 and 43 also are non-obvious and patentable over Ahn and Cannon, taken alone or in combination, at least on the basis of their dependency from claims 20, 26, 29, 32 and 41. Applicant, therefore, respectfully requests the removal of the obviousness rejection with respect to these dependent claims.

For at least the reasons given above, claims 20-23, 25-38, 41 and 43 are non-obvious and represent patentable subject matter in view of the cited references, whether taken alone or in combination. Accordingly, removal of the obviousness rejection with respect to claims 20-23, 25-38, 41 and 43 is respectfully requested. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

Appl. No. 10/625,062
Response Dated February 26, 2007
Reply to Office Action of November 24, 2006

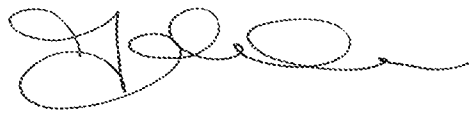
Docket No.: 1020.P16540
Examiner: Tran, Khai
TC/A.U. 2611

It is believed that claims 1-23, 25-38, 41 and 43 are in allowable form.
Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present patent application.

Respectfully submitted,

KACVINSKY LLC

A handwritten signature in black ink, appearing to read 'John F. Kacvinsky', with a long horizontal flourish extending to the right.

John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

Dated: February 26, 2007

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